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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/593,606

06/12/2007

Mark Baijens

PC10915US

1663

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RATNERPRESTIA
P.O. BOX 980
VALLEY FORGE, PA 19482

EXAMINER

MUSTAFA, IMRAN K

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

10/08/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/593,606</p>	<p>Applicant(s) BAIJENS ET AL.</p>	
	<p>Examiner IMRAN MUSTAFA</p>	<p>Art Unit 3663</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 September 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 11,13,17-22,24 and 25.
Claim(s) withdrawn from consideration: NONE.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Jack W. Keith/
Supervisory Patent Examiner, Art Unit 3663

Continuation of 11. does NOT place the application in condition for allowance because: Engelman in view of Russell clearly disclose the claimed invention.

On page 5 of the applicant's response applicants argue that Russell and Engelman are not concerned with single track vehicles.

The examiner respectfully disagrees with the applicant's arguments because Russell clearly discloses that the system can be used in a single track vehicle (Column 3 lines 10-18 "vehicle 10 is shown as an automobile, however the presently disclosed invention could be used with any other type of vehicle such as a motorcycle")

On page 5 of the applicant's argument applicants argue that Russell does not disclose on vehicle acceleration and deceleration.

The examiner respectfully disagrees with the applicant's arguments. Russell clearly discloses of vehicle acceleration and deceleration (Column 5 lines 13-25, Column 4 lines 12-25 "with the safe trailing distance determined, the sensor adjusts the accelerator of the trailing vehicle to keep the safe trailing distance maintained between itself and the lead vehicle, This is done automatically or dynamically, so that the driver input is reduced or removed. For example, if the trailing vehicle were traveling on a highway and has its cruise control set at 65 miles per hour, and has its cruise control set at 65 miles per hour, and a vehicle changes lanes in front of the driver, the accelerator is dynamically controlled to permit a safe traveling distance between the trailing vehicle and the lead vehicle"). Thus it is clear from Russell's disclosure that he does indeed disclose of acceleration and deceleration in order to maintain a safe traveling distance to the lead vehicle.

On page 5 of the applicant's arguments applicant's argue that Engelman does not teach actuating a vehicle acceleration controller according to a current engine driving torque.

The examiner respectfully disagrees with the applicant's arguments. Engelman clearly discloses of a longitudinal controller that actuates the vehicle acceleration controller according to an engine torque (Column 3 lines 39-47 "vehicle propelled by an internal combustion engine may have an electronic throttle control that control the amount of engine throttle opening to thereby apply corresponding torque through a drivetrain of the vehicle") .